

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 15023 of 2004

Between:

Tirumala Tirupathi Devasthanams,

rep.by its Executive Officer, Tirupathi,
Chittoor District

..... PETITIONER

AND

The Assistant Provident Fund Commissioner,

Sub-Regional Office, Employees Provident Fund Organization,
Kadapa, Kadapa District

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Certiorari, and quash the order passed by the respondent in proceedings No.AP/SRO/CDP/ENF/CTR/AP/1028 & 1029/2004/5206, dated 30-07-2004, holding the same as illegal, arbitrary, unjust, contrary to law and without jurisdiction.

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent: MR.R.N.REDDY

The Court at the stage of admission made the following ORDER:

This writ petition is filed questioning the proceedings issued by the respondent under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short "the Act"), dated 30-07-2004, wherein, it was held that the petitioner establishment is covered under the provisions of the Act and after closure of the S.V.Canteen, a new Trust for Nitya Annadanam Scheme was started and accordingly, as per the order dated

26-09-2001, a sum of Rs.17,00,383/- was assessed for the period from 9/91 to 6/2000 and directed to remit the said amount in the light of the directions issued by this Court earlier in W.P.No.7093 of 2002.

Learned counsel for the petitioner submits that on introduction of Nitya Annadanam Scheme by the petitioner establishment though it is running in the premises as in S.V.Canteen complex, there is no activity of canteen of any, which is of commercial nature. In view of the same, the petitioner establishment cannot be covered under the provisions of the Act.

All the above facts are disputed questions, which can be considered by the appellate Tribunal. Since the statutory appeal lies against the impugned order, the

petitioner without availing such remedy cannot invoke the jurisdiction of this Court. Since, the appellate Tribunal is not functioning as the Member, who appointed, has not joined, petitioner moved this Court by way of present writ petition.

Having regard to the said fact, interest of justice will be met, if the petitioner deposits 50% of the due amount, so assessed, within four weeks from today. Further proceedings pursuant to the impugned order shall not be enforced till the disposal of the appeal.

The petitioner is directed to file an appeal before the appellate Tribunal within sixty days. On production of the copy of the proceedings evidencing the deposit of 50% of the amount by the petitioner before the appellate Tribunal, the appellate Tribunal shall take up the appeal for its disposal without insisting for deposit of 75% of the amount.

The writ petition is accordingly disposed of. No costs.

24th AUGUST, 2004.

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To

1 The Assistant Provident Fund Commissioner,

Sub-Regional Office, Employees Provident Fund Organization,
Kadapa, Kadapa District

2 Two CD copies.